

HOUSE BILL NO. 348

INTRODUCED BY BUZZAS, HARRIS, DICKENSON, A. OLSON, HAMILTON, HINER, GALLIK

A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING YOUTH ACCESS TO ALCOHOL; AND PROVIDING
FOR REGISTRATION OF SALES OF KEGS OF BEER; ~~INCREASING THE PENALTY FOR SALE OF~~
~~ALCOHOL TO MINORS AND OTHER UNLAWFUL TRANSACTIONS WITH CHILDREN; AND AMENDING~~
SECTION 45-5-623, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Keg registration. (1) A ~~retailer~~ LICENSEE may not sell a keg of beer unless
an identification tag is attached to the keg by the ~~retailer~~ LICENSEE.

(2) An identification tag must consist of paper, plastic, metal, or durable material that is not easily
damaged or destroyed. An identification tag may be attached to a keg at the time of sale with a nylon tie or
cording, wire tie or other metal attachment device, or other durable means of tying or attaching the tag to the
keg.

(3) The identification information contained on the tag must include:

(a) the ~~licensed retailer's~~ LICENSEE'S name, address, and telephone number; AND

~~(b) a unique keg number assigned by the retailer; and~~

~~(c)(B)~~ a prominently visible warning that intentional removal or defacement of the tag is a criminal
offense.

~~(4) (a) Upon return of a keg to the retailer that sold the keg, the retailer is responsible for the removal
of the entire identification tag and any attachment device from the tag. The identification tag must be kept on
file with the retailer for not less than 90 days from the date of return.~~

~~—— (b) A retailer that accepts the return of a keg that does not have an identification tag attached shall
obtain the information required in [section 2] on the original purchaser, to the extent possible, and obtain the
same information on the person returning the keg. This information must be kept on file with the retailer for not
less than 90 days from the date of return.~~

(4) A RETAILER THAT ACCEPTS THE RETURN OF A KEG THAT DOES NOT HAVE AN IDENTIFICATION TAG ATTACHED
SHALL OBTAIN THE INFORMATION REQUIRED IN [SECTION 2] ON THE ORIGINAL PURCHASER, TO THE EXTENT POSSIBLE, AND

1 OBTAIN THE SAME INFORMATION ON THE PERSON RETURNING THE KEG. THIS INFORMATION MUST BE KEPT ON FILE WITH
2 THE RETAILER FOR NOT LESS THAN 45 DAYS FROM THE DATE OF RETURN.

3 ~~(5)(4)(5)~~ A person, other than the ~~retailer~~ LICENSEE, the wholesaler of malt beverages, or a law
4 enforcement officer, may not intentionally remove identification placed on a keg in compliance with this section.

5 ~~(6)(5)(6)~~ For the purposes of [sections 1 through 3], 4, THE FOLLOWING DEFINITIONS APPLY:

6 ~~(A) the term "keg" "KEG"~~ means a brewery-sealed, single container that contains not less than 7 gallons
7 of beer.

8 ~~—— (B) (i) "LICENSEE" MEANS A RETAILER OR A WHOLESALER WHO SELLS KEGS TO A CONSUMER AND IS LICENSED~~
9 ~~UNDER TITLE 16, CHAPTER 4.~~

10 ~~—— (ii) THE TERM DOES NOT MEAN A WHOLESALER WHO SELLS TO A RETAILER.~~

11 ~~(B) "LICENSEE" MEANS A PERSON WHO IS LICENSED UNDER TITLE 16, CHAPTER 4, AND WHO SELLS KEGS TO A~~
12 ~~CONSUMER.~~

13 ~~(7)(6)(7) THE DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE THE IDENTIFICATION TAGS REQUIRED BY THIS~~
14 ~~SECTION.~~

15
16 NEW SECTION. Section 2. Recordkeeping. (1) A ~~retailer~~ LICENSEE, at the time of the sale of a keg,
17 shall record the following:

18 (a) the purchaser's name, address, and date of birth and the number of the purchaser's driver's license,
19 state-issued or military identification card, or valid United States or foreign passport;

20 ~~(b) the date and time of purchase;~~

21 ~~—— (c) the name of the clerk making the sale;~~

22 ~~—— (d) the keg identification number required under [section 1]; and~~

23 (B) THE DATE OF PURCHASE;

24 (C) THE NAME OF THE CLERK MAKING THE SALE;

25 (D) THE KEG IDENTIFICATION NUMBER REQUIRED UNDER [SECTION 1]; AND

26 ~~(e)(D)(E)~~ the purchaser's signature and date of purchase.

27 (2) The ~~retailer~~ LICENSEE shall maintain the record for ~~not less than 90~~ 5 NOT LESS THAN 45 days after
28 the date of the sale ~~OR UNTIL THE DEPOSIT IS CASHED, WHICHEVER IS LATER.~~

29 (3) A ~~retailer~~ LICENSEE who maintains the records required by this section shall make the records
30 available during regular business hours for inspection by law enforcement PURSUANT TO [SECTION 3].

1
2 NEW SECTION. SECTION 3. ENFORCEMENT. (1) IF A LAW ENFORCEMENT OFFICER RECOVERS A KEY WITH
3 AN IDENTIFICATION TAG MAY NOT REQUEST INFORMATION ON FILE ABOUT THE ORIGINAL PURCHASER OF A KEY UNLESS
4 IN CONNECTION WITH A VIOLATION OF 16-6-305, 45-5-623, OR 45-5-624(4); THE. THE OFFICER SHALL RETURN THE ANY
5 RECOVERED KEY TO THE LICENSEE AND REQUEST VERIFY THE INFORMATION ON FILE ABOUT THE ORIGINAL PURCHASER.

6 (2) THE DEPOSIT ON THE KEY AND ANY RELATED DEPOSIT TO THE LICENSEE MUST BE FORFEITED BY THE
7 ORIGINAL PURCHASER, WITH HALF THE DEPOSIT GOING TO THE LICENSEE AND HALF TO THE APPROPRIATE LAW
8 ENFORCEMENT DIVISION.

9
10 NEW SECTION. Section 4. Violations. (1) A person who knowingly fails to attach a key tag as
11 provided in [section 1] is guilty of a misdemeanor and shall be fined an amount not to exceed \$500 or be
12 imprisoned in the county jail for not more than 6 months, or both \$100.

13 (2) A person required to record information under [section 2] who knowingly makes a materially false
14 entry in the records required under [section 2] is guilty of unsworn falsification to authorities as provided in
15 45-7-203. In a prosecution under this section, it is a defense for the defendant to establish by a preponderance
16 of the evidence that the defendant reasonably and in good faith relied upon the identification provided by the
17 purchaser of or person returning a key.

18 (3)(2) A person may not knowingly remove, deface, or damage the identification on a key PURPOSELY
19 to make it unreadable. A person convicted of knowingly PURPOSELY removing or defacing a tag shall be fined
20 an amount not to exceed \$500 or be imprisoned in the county jail for not more than 6 months, or both.

21 (4) A retailer that accepts a key for return that does not have an identification tag attached and that
22 records the information required, as provided in [section 1(4)(b)], may not be considered to have violated
23 subsection (2) or (3).

24
25 Section 4. Section 45-5-623, MCA, is amended to read:

26 "45-5-623. Unlawful transactions with children. (1) Except as provided for in 16-6-305, a person
27 commits the offense of unlawful transactions with children if the person knowingly:

28 (a) sells or gives explosives to a child under the age of majority except as authorized under appropriate
29 city ordinances;

30 (b) sells or gives intoxicating substances other than alcoholic beverages to a child under the age of

majority;

~~—— (c) sells or gives an alcoholic beverage to a person under 21 years of age;~~

~~—— (d) being a junk dealer, pawnbroker, or secondhand dealer, receives or purchases goods from a child under the age of majority without authorization of the parent or guardian; or~~

~~—— (e) tattoos a child under the age of majority without the explicit in-person consent of the child's parent or guardian. For purposes of this subsection, "tattoo" has the meaning provided in 50-2-116. Failure to adequately verify the identity of a parent or guardian is not an excuse for violation of this subsection.~~

~~—— (2) A person convicted of the offense of unlawful transactions with children shall be fined an amount not to exceed \$500 \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of unlawful transactions with children shall be fined an amount not to exceed \$1,000 \$2,000 or be imprisoned in the county jail for any term not to exceed 6 months 1 year, or both.~~

~~(See compiler's comments for contingent termination of certain text.)"~~

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 3 4] are intended to be codified as an integral part of Title 16, chapter 3, part 3, and the provisions of Title 16, chapter 3, part 3, apply to [sections 1 through 3 4].

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